

APOT /53/2023
IA No.GA/1/2023
WPO/3232/2022
IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Original Side

SUMAN SAHA
-Versus-
THE KOLKATA MUNICIPAL
CORPORATION AND ORS.

Appearance:
Mr. Raghunath Chakraborty, Advocate.
Mr. Supratik Shyamal, Advocate,
Ms. Sonali Ghosh Basu, Advocate,
Ms. Sonali Sengupta, Advocate
...for the Appellant
Mr. Alok Kumar Ghosh, Advocate
Mr. Dilip Chatterjee, Advocate
for Kolkata Municipal Corporation.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
The Hon'ble JUSTICE APURBA SINHA RAY

Date: February 24, 2023.

THE COURT: A judgment and order dated January 4, 2023,
whereby the appellant's writ petition was in effect dismissed, is under
challenge in this appeal.

The appellant approached the learned single Judge with a prayer for a direction on Kolkata Municipal Corporation (KMC) to consider his representation dated November 19, 2022 (Annexure P-5 to the application for appropriate orders) for deleting the name of the respondent no. 4 from the Inspection Book as lessee. The contention of the appellant before the learned Single Judge was that the lease in favour of the respondent no. 4 has expired long back and that respondent is in unauthorised occupation of the concerned land. Hence, the name of the private respondent as lessee should be deleted from the records of the Kolkata Municipal Corporation.

The learned Judge opined that Kolkata Municipal Corporation will not be the appropriate authority to adjudicate whether the private respondent is a lessee or not, in respect of the concerned premises. The learned Judge disposed of the writ petition by observing that it will be open to the petitioner to approach the appropriate forum for necessary relief, if so advised. Being aggrieved, the writ petitioner is before us by way of this appeal.

Mr. Chakraborty, learned Advocate for the appellant/writ petitioner says that the private respondent, after expiry of the lease that had been granted in its favour, has no right, title or interest in respect of the concerned land. It is in occupation of the concerned land unlawfully and also not

paying a farthing towards occupational charges. The KMC should at least consider the representation made by the appellant.

Mr. Ghosh, learned Advocate appearing for the Kolkata Municipal Corporation says that admittedly the private respondent is in occupation of the concerned land. The Corporation is not concerned with the legal status of the private respondent. So long as that respondent is in actual occupation, it may not be proper to delete its name from the Corporation records. If the appellant succeeds in evicting the private respondent from the concerned land following due process of law, there will be no difficulty for the Corporation to delete the name of the private respondent from its records.

We are of the view that since a representation has been made by the appellant, there will be no harm in directing the Corporation to consider and dispose of the same in accordance with law by a reasoned order after giving opportunity of hearing to the appellant, the private respondent and any other concerned party or their authorised representatives. This exercise will be completed by the Assessor Collector, Tolly Tax Department, KMC within a period of 8 weeks from the date of communication of this order.

The appeal and the connected application (GA-1 of 2023) are disposed of accordingly. We have not gone into the merits of this case.

Since we have not called for affidavits, the allegations made in the application for appropriate orders are deemed not to have been admitted by the respondent.

(ARIJIT BANERJEE, J.)

(APURBA SINHA RAY, J.)

dg/